

**Ravalli County Planning Board
Meeting Minutes for May 3, 2006
7:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana**

Public Hearing

Mountain View Orchards, Block 12, Lot B, AP (Zech) Minor Subdivision with One Variance
Request – Second Public Hearing

*This is a summary of the meeting, not a verbatim transcript. A CD of the meeting
may be purchased from the Planning Department for \$5.00.*

1. Call to order

Chip called the meeting to order at 7:15 PM.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Ben Hillicoss (absent – excused)
Dan Huls (absent – excused)
JR Iman (present)
Frankie Laible (present)
Roger Linhart (absent – excused)
Chip Pigman (present)
Les Rutledge (present)
Lori Schallenberger (present)
Gary Zebrowski (present)

(B) Staff

Benjamin Howell
Karen Hughes
Shaun Morrell
Renee Van Hoven
Jennifer De Groot

3. Approval of Minutes

Chip asked if there were any corrections or additions to the minutes from April 19, 2006.
There were none. The minutes were approved.

4. Amendments to the Agenda

There were none.

5. Correspondence

There were three additional agency comments and one additional public comment on the subdivision: Corvallis Fire District comments on the variance request (See Attachment B, Email from Wendy Madsen); County Road & Bridge Department comments on the variance

request (See Attachment C, Email from David Ohnstad); Staff Report memo and agency comments from the Coyote Creek Water Distribution Company (See Attachment D, Memo regarding Additional Findings and Conditions for Staff Report); and Public Comment Letter from Hugh Good (See Attachment E, letter from Hugh Good).

6. **Disclosure of Possible/Perceived Conflicts**

There were none.

7. **Public Hearing**

(A) **Mountain View Orchards, Block 12, Lot B, AP (Zech) Minor Subdivision with One Variance Request (Second Public Hearing)**

- (i) Staff Report on the Subdivision Proposal: **Benjamin Howell** gave a PowerPoint presentation. He gave an overview of the proposal and stated Staff recommended denial of the variance and conditional approval of the subdivision. He entered the Staff Report into the record. (See Attachment F, Mountain View Orchards, Block 12, Lot B, AP (Zech) Staff Report)

- (ii) Three Minute Rule Waivers

There were none.

- (iii) Public Comment on the Subdivision

- (a) Persons in Favor

Leonard Shepherd of Shepherd Surveying said that he had already received approval from the Coyote Creek Water Distribution Company, but would be happy to meet any conditions imposed by them. He said that at the Board of County Commissioner's meeting, Commissioner Thompson said there might be safety issues with the proposed accesses and that the issue had not been sufficiently discussed at Planning Board meetings. Leonard said they changed the plat to include only two accesses off Sutherland Lane. He said the width of the proposed internal road is county standard and the Corvallis Rural Fire District should not have a problem with it. He said that the proposed variance is from the road surface and the 40-foot wide easement. He said approach permits were issued by the Road Department before they issued their new access encroachment policy.

- (b) Persons Opposed

Linda Thompson said she was not opposed to the subdivision, but was concerned with an increase in traffic on Sutherland Lane. She said she did not know why Sutherland Lane was considered a local access and noted that 40 homes use the lane. She was concerned that the developer tried to evade applying for a major subdivision since six lots were ultimately created.

Jack Thompson said there was a variance which allowed someone to cut off six acres of the property. He said developers should follow the regulations. He

urged the Board not to allow the road variance. He said the Board should review the development process and how people go in and rezone parcels.

(c) Rebuttal

Leonard Shepherd said the variance does not affect Sutherland Lane and the developer will pay a pro-rata share for the lane. He said the variance is only for the internal road and that he does not have a problem proposing a cul-de-sac instead of a hammerhead. He said the owners performed a legal boundary line relocation and then applied for the minor subdivision.

(d) Close: Public Comment

(iv) Board Deliberation on the Variance Request (for the internal road)

(a) Board discussion and questions

Frankie recommended that the Thompsons talk to the County Commissioners about the pro-rata share on Sutherland Lane. She said the money given by the developer is not necessarily spent on the road for which it was collected. She said it goes into a grader district and that the Board has no control over the road money.

Les asked what happened to the access to the north of the development.

Leonard answered that it was deleted because Commissioner Thompson was concerned with safety. He said there is no connection to the exterior east lot through the north lot.

Frankie said the adjoining neighbors approve of the road variance and the subdivision was already granted the access permits. She motioned to approve the variance.

Lori seconded the motion.

JR said there is not enough room for large trucks to turn around in the hammerhead. He recommended a cul-de-sac.

Frankie amended her motion so the developer would have to change the internal hammerhead into a cul-de-sac turn around.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion.

(2) Board Decision

The vote was called; the members voted (6-0) to approve the Variance. (See Attachment G, Mountain View Orchards Block 12, Lot B, AP Variance Vote Sheet)

(v) Board Deliberation on the Subdivision Proposal

(a) Board discussion and questions

Les said the Board needs to address Conditions 7 and 11 of the staff report. He thought Commissioner Thompson was adamant about limiting the number of accesses.

Lori asked if the conditions were added from the previous staff report.

Ben Howell said that they were.

Les asked how the staff interpreted comments from the County Commissioners.

Ben Howell said that the Commissioners were concerned Sutherland Lane would have more traffic in the future and that they wanted the Road Department's encroachment policy added as new information. He said the Planning Department's recommendation for one access came from these concerns.

Chip said that the Road Department had already issued two access permits and that there is a 400 feet separation between the accesses now, which makes them safer.

Leonard said that surveyors used to go out and do sight distance tests. Now he goes to the entity, in this case the Road Department, and accepts the approach permit as a tacit approval of the approach's safety. He said he is currently working on an approach on Skalkaho Highway and that there was conflict between the Montana Department of Transportation and the County's Road Department. He said the Access Encroachment Policy which affects this subdivision was not in effect when the subdivision was submitted. He wanted to know the facts and reasons the approaches are not considered safe.

Lori asked if Mr. Zech had received an estimate of the pro-rata cost.

Steve Zech said he anticipates the cost to be \$35,000.

Lori motioned to approve the subdivision, noting that the sight distance is now at least 400 feet between accesses, with a strong recommendation that the pro-rata be used on Sutherland Lane to help with the increased traffic, with the deletion of Condition 7 from the Staff Report, and with the amendment of Condition 11 to note two accesses.

Frankie seconded the motion.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (6-0) to approve the Subdivision. (See Attachment H, Mountain View Orchards Block 12, Lot B, AP Vote Sheet)

8. **Close Public Hearing**

9. **Special Presentations about Streamside Setbacks**

Clint Brown said he was asked by the Board of Realtors to look at the initial thoughts of the streamside working group and come up with a methodology for stream typing.

Frankie said the working group includes herself, Chris Clancy, Rick Liabe, Trout Unlimited, Montana Fish & Wildlife, The Audubon Society, Steve Powell, Commissioner Chilcott, members of the Planning Board, Susan Key, and Barbara Kitchens. She noted that the Board of Realtors began the planning process and then Susan Key from the Bitter Root Water Forum started coordinating the meetings.

Susan Key said that at the public forum last April, Barbara Kitchens had asked for a mechanism whereby a setback ordinance could be put into place that was acceptable to residents of the valley and the Commissioners so it would not need many changes. Susan volunteered the Bitter Root Water Forum as a mechanism with broad stakeholder representation.

Teri Polumsky said that during the last legislative session, a bill almost passed for mandatory 300-foot setbacks on streams. She said that only counties with a program in place by the end of 2006 will be exempt from the proposed law, so timing is crucial.

Clint Brown gave a Power Point presentation about Stream Protection Zones (SPZ). His methodology included the Rosgen stream classification, which streams would be included, and the general multipliers to determine reasonable stream setbacks. He also said that when streams transition to different types, the transition should be smooth.

Chip asked how the methodology would be applied. He noted high costs for hiring engineers to design roads and then to have the plans reviewed by another engineer. He asked what this process would cost the developer.

Clint said his plan is to make a map and deliver it to the County so that there will not be interpretation issues.

JR said the majority of discussion at the setback meetings has been about whose view to take. He noted that developers, landowners, and conservation groups all have different ideas about the setbacks. He said the focus at this time is to make a base map with scientifically defensible material.

Frankie said that the County would not be able to control land already subdivided, but they could control where septic approvals were issued.

Chip said it should not be put onto the back of subdivision developers.

Susan Key, Executive Director of the Bitter Root Water Forum, provided new information about the setback situation. She handed out a booklet from the Bitterroot Water Form and a sheet describing riparian areas and related information. (See Attachment I, Taking Care of the Bitterroot Watershed: A Citizen's Guide and Attachment J, Riparian Area sheet). She explained there are three variables which determine riparian areas: soils, vegetation, and hydrology. She said the Setback Working Group does not want to put a burden on the County and noted that much of the needed information is already paid for. She said NRCS has finished soil maps and they will be available in a GIS layer in two months. Montana Natural Heritage Institute has been contracted to map all of Montana's riparian areas and wetlands. A GIS layer of riparian vegetation and areas should be available by 2007-2008. She said the County currently has 20 or 40 foot interval contours. The County is submitting a grant to the DNRC for \$100,000 to obtain one-foot contour intervals. For greatest accuracy, LIDAR would be used on about 500 square miles of the County. She has received four cost estimates for LIDAR mapping, ranging from \$210,000 - \$230,000. She suggested that if the Board of Realtors matched the DNRC grant, the entire area could be mapped. She said the process would take only three months and the GIS elevation layer would be available by the end of 2007.

Gary noted that a combination of both Clint's and Susan's approaches would be good.

Barbara Kitchens, Government Affairs Director for the Bitterroot Board of Realtors, said that in order to keep local control, the County needs to have a plan in place by the end of 2006. The Board of Realtors offered a grant for the 2005-2006 years for Environmental Implementation: implementing an existing environmental preservation component in the community. She said Commissioner Chilcott requested language from the Realtors for the purpose of amending the Growth Policy. She said if the Growth Policy is amended, the Board of Realtors would provide a map with streamside setback preservation zones and a Document of Compliance. She said if the County does not move and allow Clint Brown to start working in the field by June 1, it is selfish of the Bitterroot Board of Realtors to keep the money tied up since there are other Realtor boards which could use the funds.

Susan asked if the bill would apply to counties which are in the process of creating setbacks or have an interim stream protection ordinance. She asked Barbara to ask the Board of Realtors if there is any possibility of using the money to match the elevation contour grant.

Teri Polumsky, Government Affairs Committee Chair for the Bitterroot Board of Realtors, said they thoroughly researched the grant already and decided on the mapping project with Clint. She said it cannot be used for contours, although they could search for alternative funds for that purpose. She said interim zoning does not exempt counties from the proposed state requirements. She also noted that water protection is a key concern of Ravalli County residents.

Steve Powell asked if a county's program needed enforcement to be exempt.

Barbara said that it can just be a preservation zone and can be adopted by the Document of Compliance.

Frankie said that Commissioner Chilcott spoke with James McCubbin and agreed that not much has to be done now to get the setbacks in place; the process can be refined later.

Steve Powell agreed that the setbacks should be handled locally, but said to use the stream typing as a step for local control, then the discussion could continue.

Gary said that since only the criteria needs to be met by December 31, everyone could work on the issues after the fact.

Barbara said they requested legal analysis from Washington D.C, Helena, and a local attorney, and all the legal opinions said these were the steps to gain local control.

Gary requested a copy of the criteria needed.

Clint explained that he does not rely solely on contour topographic maps for stream typing and hydrology work. He said the processes do not replace each other.

Susan requested documentation from the Board of Realtors with their grant requirements.

Barbara said the Board of Directors voted unanimously to retain Clint Brown and they require him to be in the field by June 1, 2006, or they will release the funds. She said the map is a Christmas present to the County. She said that Commissioner Chilcott has the issue on the agenda for Monday and she wants him to adopt text to amend the Growth Policy. She requested a statement from the Board to encourage the Commissioners to proceed.

Susan asked why the Christmas present could not be one-foot contours. She said the Setback Working Group could work to put something in place to satisfy the Board of Realtors.

Chip said the Planning Board will not have much impact on the grants and funds.

JR said that it is a logical extension of the planning process, not just the subdivision process, to have the setbacks in place. He said they should maintain local control and noted that when the legislature last voted on the issue, it came within one vote of being passed.

Frankie recommended sending a letter to the Commissioners to seriously consider supporting streamside setbacks.

Karen said that amendments to the Growth Policy must go through a public hearing process before the Planning Board and the Board of County Commissioners.

Les asked to see the proposed language that would amend the Growth Policy.

Barbara said she gave the language to Commissioner Chilcott and James McCubbin.

Karen also asked to see the proposed amendment language.

Lori supported sending a recommendation which supports local control and the mapping project.

Susan said the language for the Growth Policy amendment did not go through the Setback Working Group, but came from the Bitterroot Board of Realtors.

Teri said they received a request from Commissioner Chilcott to prepare the language, and they were going to share it at the next setback meeting, but it was cancelled.

Karen said the Planning Board could prepare a statement to send to the Commissioners. She suggested: The Board is proposing a resolution to support local control in activities that will

protect the county's water resources by moving forward with necessary amendments to the growth policy and other amendments. The Board also supports the mapping project.

The Board agreed to send the statement to the Commissioners.

10. **Communications from Staff**

Karen said there would be a Public Hearing on May 8, 2006 at 10:00 AM for changes to the Planning & GIS Fee schedules. She said there were only minor fee changes and they were mainly updated to include Interim Zoning fees. She said there would be a Public Hearing on May 8, 2006 at 10:30 AM for opening the Planning Department at 9 AM. Karen said Staff is now meeting deadlines and wants to better serve the public, whether that means keeping the office closed in the morning and working on long-range projects or being open the full day. She also invited the Board to attend a Lake County Density Mapping Presentation by Sue Shannon on May 8, 2006 at 12:30 AM. She noted that zoning in Lake County was completed in a short amount of time and with little difficulty.

JR said his brother-in-law lives in the area and that there are no transition zones outside the cities. He said that because of the zoning there will be one house per forty acres in areas.

Karen said the concept is unique. Normally zoning deals with use, density/intensity of use, and design to achieve public health and safety objectives. She noted Lake County only tackled the density issue.

11. **Communications from Public**

Barbara Kitchens recommended that the Staff transition into opening the office by being open all day on Mondays, Wednesdays, and Fridays and open half-days on Tuesdays and Thursdays.

Steve Powell said it would help him if the Planning Department was open all the time so he could pick up forms and turn items in.

Clint Brown said he has to plan his schedule around when the Planning Department is open.

12. **Communications from Board**

Gary said the Land Use Committee will probably work on amendments to the Growth Policy. He said that the members of the Committee met and he created a first draft list of their priorities. He said he will give the Board a copy of their priorities later and noted that many of them can be performed simultaneously. He noted that he would like to meet with Karen and Staff to talk about subdivision regulation changes. Gary said the Land Use Committee may have a meeting next week.

Les said that there were discussions of conserving open space and using cluster development that were not adopted in the Growth Policy or Subdivision Regulations. He noted there are a few large subdivisions that will come to the Board soon and although there has been enormous public outcry against them, it is difficult for the Board to come up with something substantial to support denying a subdivision. He recommended deliberation about an interim resolution. (See Attachment K, An Interim Zoning Resolution to Advise Developers of Large Subdivisions of the Planning Board's Concern About Loss of Open Space in

Proposed Developments) He said the resolution would be non-regulatory, but would allow conversations regarding conservation of open space and farmland.

Chip asked if Les wanted to communicate that the Board wants more open space than the law requires. He also asked what the Board wanted to communicate to the development community about design.

Les said he wanted to explore other alternatives to the grid system and have developers consider conserving open space.

Chip said design concepts are in place long before they reach the Board. He said the Preliminary Plat has to be complete so that the County will be assured the developer will meet standards.

Karen noted designs are often finalized by the pre-application conference and this is especially true for large subdivisions. She said the ideal place to address these issues is in the subdivision regulations. She said she thought what Les was requesting was an interim solution to encourage development in a certain way until it becomes regulatory.

Les said the Board can only react, but he is trying to express concern. He said he wants to help rewrite review standards.

Frankie said that the six criteria are the primary review elements. She noted that there is about 30 percent of the land left open in a large proposed development. She said these ideas should go in the subdivision regulation rewrite.

Karen said it is better to provide developers with specific ideas and development patterns. She said some developers come to pre-application conferences with vague ideas and she could explore having some Board members attend the conferences to help guide them.

Gary said he supports Les' efforts, but there may be legal issues. He said the resolution is too broad and hard for developers to interpret and apply. He recommended encouraging open space in the subdivision regulations.

Les said that at the Land Use Law Clinic presentation, they discussed designs that will fit into zoning. They also presented good examples of cluster and planned unit developments. He said the Board should recognize the newer concepts and tools at their disposal.

Karen said that SB116 was the main reason for amending the Subdivision Regulations and those issues are the priority to finish. She said Staff might not get the entire regulations revised, although the Board, the County Commissioners, and Staff have expressed that they would like to.

13. **New Business**

Lori said she was upset that the Bitterrooters for Planning published her cell phone number in the newspaper.

Karen said she would remind the Staff not to give out personal numbers to the public and said that Staff has different contact sheets for private use and public use.

14. Old Business

There was none.

15. Next Regularly Scheduled Meeting: May 17, 2006 at 3:00 PM.

- (A) Hamilton Heights Block 17, Lot 2A, AP (Bundy) Minor – Public Hearing for Variance Request
- (B) Silverado Heights (Broadhead) Major – Public Hearing
- (C) Squires Estates (Ede) Major – Plat Evaluation

16. Adjournment

Chip adjourned the meeting at 9:43 PM.